

2.	BellSouth is not providing customized routing using Advanced Intelligent Network	28
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II.	BELLSOUTH IS NOT PROVIDING OR OFFERING NONDISCRIMINATORY ACCESS TO OPERATOR AND DIRECTORY ASSISTANCE	30
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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Application of BellSouth Corporation,)	
BellSouth Telecommunications, Inc.,)	
And BellSouth Long Distance, Inc. for)	CC Docket No. 97-208
Provision of In-Region, InterLATA)	
Services in South Carolina)	

**AFFIDAVIT OF
JAMES A. TAMPLIN, JR.
ON BEHALF OF AT&T CORP.**

James A. Tamplin, Jr., being first duly sworn upon oath, does hereby depose
and state as follows:

INTRODUCTION

1. My name is James A. Tamplin, Jr. My business address is 1200
Peachtree Street, NE, Atlanta, Georgia 30309-3579. I graduated from the United States
Naval Academy with a degree of Bachelor of Science in Engineering. I also have a Masters of
Science Degree in Management from the United States Naval Postgraduate School in
Monterey, California and a Masters of Science Degree in Information Technology from the
George Washington University in Washington, D.C. I began my career with AT&T Long
Lines in 1979 as a Supervisor in the Corporate Communications organization. My areas of

FCC DOCKET NO. CC 97-208
AFFIDAVIT OF JAMES A. TAMPLIN, JR.

responsibility at AT&T have included: private line service; interstate tariffs; AT&T's dedicated network for the Southern United States; AT&T's FTS2000 implementation; and the SONET backbone ring. In January of 1996, I assumed my present responsibilities as manager of AT&T technical specialists for AT&T's Local Services Division.

2. Among the materials I reviewed in preparing this affidavit are the interconnection agreement between AT&T and BellSouth, BellSouth's Statement of Generally Available Terms and Conditions ("SGAT"), approved by the Public Service Commission of South Carolina ("SCPSC") on July 31, 1997 and amended on September 19, 1997, affidavits of Alphonso J. Varner, W. Keith Milner, William N. Stacy, and David Hollett, submitted in this proceeding by BellSouth in support of its application for authority to provide in-region, interLATA services in South Carolina, and the SCPSC report and order in the arbitration between AT&T and BellSouth.

SCOPE OF STATEMENT AND SUMMARY

3. My affidavit shows that BellSouth has not made access to individual unbundled network elements ("UNEs") available in accordance with the Telecommunications Act of 1996 (the "Act") and the Commission's regulations.¹ In particular, I demonstrate that BellSouth has not made available nondiscriminatory access to three items on the "competitive

¹ See In the Matter of Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services In Michigan, CC Docket No. 97-137 (August 19, 1997)(Ameritech Michigan) ¶¶ 109-110.

FCC DOCKET NO. CC 97-208
AFFIDAVIT OF JAMES A. TAMPLIN, JR.

checklist": unbundled network elements, § 271(c)(2)(B)(ii); unbundled local switching, § 271(c)(2)(B)(vi); and operator and directory assistance services, § 271(c)(2) (B)(xii).

4. In Part I of my affidavit, I will show that BellSouth is denying nondiscriminatory access to the unbundled local switching element in four different ways.² First, BellSouth has not made available the access records that CLECs need to bill and collect for exchange access services. See Ameritech Michigan, ¶330. Second, BellSouth has not made available the usage and billing data necessary for CLECs to bill and collect reciprocal compensation from other carriers for terminating local and intraLATA toll calls. Third, BellSouth is unreasonably restricting access to vertical features of the unbundled local switching element both by requiring CLECs to order and pay for vertical features separately, in addition to charging CLECs a rate for local switching that already includes the cost of providing vertical features, and by denying access to vertical features except as they are offered in BellSouth retail services. Fourth, BellSouth has not made available technically

² See Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, First Report and Order, CC Docket No. 96-98, 11 FCC Rcd 15499, 15,706-15,707, 15,709 (1996) ("Local Competition Order"), ¶¶ 412-413, 418, affirmed in part and vacated in part sub nom. Competitive Telecommunications Assn. v. FCC, 117 F.3d 1068 (8th Cir. 1997), aff'd in part and vacated in part sub nom. Iowa Utilities Board v. FCC, No. 96-3321 et al., 120 F.3d 753 (8th Cir. 1997) ("Iowa Utilities Board"), Order on Reconsideration, 11 FCC Rcd 13042 (1996) ("Local Competition First Reconsideration Order"), Second Order on Reconsideration, 11 FCC Rcd 19738 (1996) ("Local Competition Second Reconsideration Order"), Third Order on Reconsideration and Further Proposed Rulemaking, FCC 97-295(rel. August 18, 1997) ("Local Competition Third Reconsideration Order"), further recon. pending.

FCC DOCKET NO. CC 97-208
AFFIDAVIT OF JAMES A. TAMPLIN, JR.

feasible customized routing, using either Line Class Codes ("LCCs") or Advanced Intelligent Network ("AIN") architecture. See Local Competition Order, ¶ 418.

5. In Part II, I will show that BellSouth is violating its obligation to provide nondiscriminatory access to operator and directory assistance services in accordance with Sections 251(b)(3) and 271(c)(2)(B)(xii) of the Act by refusing to rebrand or unbrand the operator and directory assistance services it makes available for resale by AT&T.

I. BELLSOUTH IS NOT PROVIDING OR OFFERING UNBUNDLED LOCAL SWITCHING AS REQUIRED BY SECTIONS 251(c) AND 271.

6. BellSouth denies nondiscriminatory access to the unbundled local switching ("ULS") element as required by the Act and the Commission's Local Competition Order. Competitive local exchange carriers are entitled to use unbundled network elements to provide any and all telecommunications services, including local service, intraLATA toll service, interLATA service, and exchange access service. 47 C.F.R. §§ 51.307(c), 51.309(b). By failing to provide essential access records and usage data as well as by imposing unreasonable restrictions on the use of the ULS, BellSouth denies CLECs the ability to use unbundled network elements (1) to bill and collect exchange access charges, (2) to bill and collect reciprocal compensation from other carriers for terminating local and intraLATA toll calls, (3) to take advantage of the vertical features of the switch to offer consumers the widest choice of local services, and (4) to use customized routing to direct operator services and directory assistance (OS/DA) calls to CLEC OS/DA centers.

FCC DOCKET NO. CC 97-208
AFFIDAVIT OF JAMES A. TAMPLIN, JR.

A. The Act's Requirements Relating to the Unbundled Local Switch.

7. The local switch is at the center of the local telecommunications network. It connects lines to lines, trunks to lines, trunks to trunks, lines to trunks, and provides features, functions, and capabilities -- including dial tone, telephone numbers, vertical features, signaling, access to 911 service, operator services, directory assistance and routing. These are key elements in the provision of local, intraLATA and interLATA toll services, and exchange access services. Given the central role of the switch in the local exchange network, it is not surprising that the Act includes the switch within the definition of "network elements" that must be unbundled, Section 251(c)(3), and includes as one of the competitive checklist items "local switching unbundled from transport, local loop transmission, or other services." Section 271(c)(2)(B)(vi).

8. The Commission specifically defined the unbundled local switching element as "line-side and trunk-side facilities plus the features, functions, and capabilities of the switch." Local Competition Order, ¶ 412. These features, functions, and capabilities include "the basic switching function of connecting lines to lines, lines to trunks, trunks to lines, trunks to trunks." Id. They also include "a telephone number, directory listing, dial tone, signaling, and access to 911, operator services, and directory assistance. In addition, the local switching element includes all vertical features that the switch is capable of providing, ... as well as any technically feasible customized routing functions." Id. (footnote omitted).

FCC DOCKET NO. CC 97-208
AFFIDAVIT OF JAMES A. TAMPLIN, JR.

9. The Commission has made it clear that when a requesting CLEC purchases the ULS element, it obtains access to all of the above features, functions and capabilities, priced on a per line basis. E.g., Order on Reconsideration, ¶ 11. The Commission also has made it clear that a carrier that pays the economic cost of unbundled switching obtains this full complement of features, functions, and capabilities, whether or not it ultimately opts to activate any of these features on an individual line. Local Competition Order, ¶ 423.

B. BellSouth Is Not Providing Access Records Necessary For CLECs To Bill and Collect For Exchange Access Services That The CLECs Provide Using Unbundled Network Elements.

10. If a CLEC provides exchange access service to itself or to another carrier using unbundled network elements, it pays cost-based rates for the network elements and the BOC is no longer entitled to collect access charges. See Local Competition Third Order on Reconsideration, ¶ 38 ("where a requesting carrier provides interstate exchange access services to customers, to whom it also provides local exchange service, the requesting carrier is entitled to assess originating and terminating access charges to interexchange carriers, and it is not obligated to pay access charges to the incumbent LEC"). The CLEC, not the BOC, is the provider of exchange access and is entitled to the access revenue. Id.³

³ Permitting CLECs to use unbundled network elements to provide exchange access to themselves and others is also a significant element of the Commission's "market-based"

(continued...)

FCC DOCKET NO. CC 97-208
AFFIDAVIT OF JAMES A. TAMPLIN, JR.

11. As the Commission explained in the Local Competition Order, ¶ 363 n.

772:

where new entrants purchase access to unbundled network elements to provide exchange access services, whether or not they are also offering toll services through such elements, the new entrants may assess exchange access charges to IXC's originating or terminating toll calls on those elements. In these circumstances, incumbent LECs may not assess exchange access charges to such IXC's because the new entrants, rather than the incumbents, will be providing exchange access services, and to allow otherwise would permit incumbent LECs to receive compensation in excess of network costs in violation of the pricing standard in section 252(d).

In its reconsideration order, the Commission reaffirmed that view:

a carrier that purchases the unbundled local switching element to serve an end user effectively obtains the exclusive right to provide all features, function, and capabilities of the switch, including switching for exchange access and local exchange service for that end user. A practical consequence of this determination is that the carrier that purchases the local switching element is likely to provide all available services requested by the customer served by that switching element, including switching for local exchange and exchange access.

Local Competition Order on Reconsideration, ¶ 11 (emphasis added).

12. To permit a CLEC to provide exchange access services, the BOC must provide access records containing the necessary usage and billing data on calls to and from each CLEC customer. The access records include information such as the minutes of use,

³ (...continued)

approach to access charge reform. See Ameritech Michigan ¶ 20; In the Matter of Access Charge Reform, CC Docket 96-262, First Report and Order (May 16, 1997) ("Access Charge Order") ¶ 7.

FCC DOCKET NO. CC 97-208
AFFIDAVIT OF JAMES A. TAMPLIN, JR.

called party number, calling party number, and Carrier Identification Code ("CIC"). Without such information, a CLEC will not be able to bill for access charges and will be denied the revenues associated with the use of unbundled network elements to which it is entitled. As the Commission has recognized, a CLEC's ability to use unbundled network elements to provide all telecommunications services and collect the associated revenue is essential to the viability of entry based on the use of unbundled network elements.

13. BellSouth has not demonstrated that it can provide CLECs with the billing information they need to use unbundled network elements to provide access services, as they are entitled to do under the Act. With respect to interstate access charges, BellSouth only recently conceded that it had any obligation to provide CLECs the requisite billing information, and thus only recently began discussing how such information should be provided. With respect to intrastate access charges, BellSouth continues categorically to refuse to provide the necessary billing information.

1. Interstate access charges.

14. The provision in BellSouth's SGAT dealing with CLEC provision of exchange access reflects BellSouth's position that only CLECs with their own facilities may use unbundled network elements to provide local exchange and exchange access services.

BellSouth's SGAT, I.,A.,6. provides (footnote omitted):

When BellSouth and a CLEC provide an access service connection between an interexchange carrier ("IXC") and each other, each company will provide its

FCC DOCKET NO. CC 97-208
AFFIDAVIT OF JAMES A. TAMPLIN, JR.

own access services to the IXC on a multi-bill, multi-tariff meet-point basis. Each company will bill its own access services rates to the IXC with the exception of the interconnection charge. The interconnection charge will be billed by the company providing the end office function. BellSouth will use the Multiple Exchange Carrier Access Billing system to establish meet point billing for all applicable traffic, including traffic terminating to ported numbers. 30-day billing periods will be employed for these arrangements. The recording company agrees to provide to the initial billing company, at no charge, the switched access detailed usage data within a reasonable time after the usage is recorded. The initial billing company will provide the switched access summary usage data to all subsequent billing companies within 10 days of rendering the initial bill to the IXC

In correspondence with AT&T, however, BellSouth has confirmed that, except in what may be a fairly narrow category of interstate calls, BellSouth will bill and collect access charges on all interstate and intrastate calls (subject to access charges) to and from customers in its service area, even if a CLEC provides local service to the customer with unbundled network elements purchased from BellSouth.

15. More specifically, on September 12, 1997, a little more than two weeks before it filed its application in this proceeding, BellSouth stated that it now agrees that AT&T is entitled to bill and collect access charges on at least some interstate calls: "[I]n instances where the use of unbundled network elements is not duplicating an existing BellSouth service," BellSouth acknowledges that AT&T is entitled to bill and collect access charges for interstate access and therefore BellSouth needs "to send records in order for the local provider to bill the IXC interstate access." Letter from Mark L. Feidler (BellSouth) to William J. Carroll (AT&T) (September 12, 1997) (Attachment 1) at 4.

FCC DOCKET NO. CC 97-208
AFFIDAVIT OF JAMES A. TAMPLIN, JR.

16. BellSouth's letter does not explain precisely what it means when it says it will not permit CLECs to collect access charges when the services they provide using unbundled network elements "duplicat[e] an existing BellSouth retail service." However, in proceedings before state commissions throughout the BellSouth region, including South Carolina, BellSouth has explained that it considers CLEC service to be duplicative of BellSouth's service when the CLEC does not use either its own loop or switch. See Prefiled Testimony of Alphonso J. Varner, Docket No. 96-358-C, Hearing No. 9585, Vol. 2 at 427 (SCPSC February 3, 1997) ("[I]t is not appropriate to combine BellSouth's loop and port to create basic local exchange service").

17. As far as I am aware, there is no technical or legal basis for the distinction BellSouth suggests for determining when it will provide AT&T with the access records it needs to use unbundled network elements purchased from BellSouth to provide interstate exchange access. To the extent BellSouth refuses to provide AT&T with necessary access records on the ground that AT&T is providing services that duplicate BellSouth retail services (or is not using facilities other than those purchased from BellSouth), BellSouth is unlawfully denying AT&T the right to use unbundled network elements to provide telecommunications services in accordance with the Act and the Commission's regulations.

18. In all events, it is clear that BellSouth today is not only unwilling but has not attempted to provide CLECs with the access records they would need to bill for interstate

FCC DOCKET NO. CC 97-208
AFFIDAVIT OF JAMES A. TAMPLIN, JR.

access, regardless of whether the CLEC is providing service exclusively through use of unbundled network elements purchased from BellSouth.

19. One of BellSouth's witnesses, Mr. Milner, asserts that "[a]s of August 14, 1997, BellSouth has a process in effect and the capability to mechanically produce a bill for usage charges if a CLEC purchases unbundled switching from BellSouth." Affidavit of W. Keith Milner, ¶ 52.⁴ The capability that BellSouth claims to have achieved as of August 14, 1997, involves billing for unbundled local switching only on originating local traffic. Mr. Feidler made this clear in his letter to Mr. Carroll: "[a]s of August 14, 1997, BellSouth has the capability to bill the MOU based switching and transport elements for all local calls originating from [unbundled local switching- line ports]...." Letter from Mark L. Feidler(BellSouth) to William J. Carroll (AT&T) (September 12, 1997) (Attachment 1) at 4. Even as to the originating usage data that BellSouth claims it can now provide, AT&T has had no opportunity to evaluate the data generated to confirm that it is either accurate or reasonably reliable on a test basis, much less in a commercial environment.

20. Moreover, while Mr. Feidler specifically discusses BellSouth's obligation to provide AT&T with interstate access records (see ¶ 15, above), it is plain

⁴ Although BellSouth witness David Hollett also asserts that the Carrier Access Billing System ("CABS") "measures billable access usage and is used for billing to carriers," and further that "71 CLEC bills are being generated through CABS...", the CABS system does not provide the access records CLECs need to bill IXC's for access charges. See Affidavit of David Hollett, ¶¶ 5-6,

FCC DOCKET NO. CC 97-208
AFFIDAVIT OF JAMES A. TAMPLIN, JR.

BellSouth has not yet developed that capability. The usage data CLECs will need to bill access charges on interstate calls is available in BellSouth's systems, and the originating access records made in the switch must be provided to AT&T. To provide terminating usage records by Carrier Identification Code ("CIC") for each line for each AT&T customer served via unbundled local switching, a program needs to be developed to sort the records associated with AT&T's customers from those belonging to other CLECs and BellSouth. In other words, BellSouth needs to provide each CLEC with records showing its customers' interstate calls to and from particular IXCs. While this is certainly feasible, BellSouth has not yet done so.

21. BellSouth has made little, if any, progress in developing the ability to provide the terminating usage data necessary to permit CLECs to bill and collect access charges. See Ameritech Michigan, ¶ 330. The lack of progress reflects BellSouth's refusal to discuss the issues related to billing for access charges until September 12, 1997. As a result, even in the limited circumstances in which BellSouth agrees that it must provide AT&T with access records to permit AT&T to bill and collect interstate exchange access charges, BellSouth is in no position to do so today. Until BellSouth develops and deploys some appropriate arrangement to apportion switching usage data by carrier and by line for each CLEC, BellSouth will not be in a position legitimately to offer to provide the necessary access data.

FCC DOCKET NO. CC 97-208
AFFIDAVIT OF JAMES A. TAMPLIN, JR.

2. Intrastate access charges.

22. For the same reasons, BellSouth cannot provide access records necessary for CLECs to bill and collect intrastate access charges.

23. In addition, however, BellSouth has made it clear that it would not provide the records necessary for CLECs to bill intrastate access charges. BellSouth's longstanding position is that it is entitled to bill and collect access charges on intrastate calls to customers in its service area, even if AT&T provides the customer's local service using unbundled network elements purchased from BellSouth. See Letter from Mark L. Feidler (BellSouth) to William J. Carroll (AT&T) (September 12, 1997) (Attachment 1) at 4; Letter from Mark L. Feidler (BellSouth) to A. J. Calabrese (AT&T) (May 29, 1997) (Attachment 2).

24. As noted above, under the Commission's regulations, if a CLEC is providing services using unbundled network elements purchased from BellSouth, that CLEC is entitled to all revenues associated with all services provided using the unbundled network elements, whether the services are jurisdictionally interstate or intrastate. See also In the Matter of The Public Utility Commission of Texas, CCBPol 96-13, et seq. (October 1, 1997), ¶ 210 n.482 (application of intrastate access charges to intrastate toll traffic carried over unbundled network elements "would appear to raise significant [federal preemption] issues"). The Eighth Circuit's decisions with respect to the Commission's authority to prescribe prices for intrastate services do not address a CLEC's right to bill and collect for services provided

FCC DOCKET NO. CC 97-208
AFFIDAVIT OF JAMES A. TAMPLIN, JR.

with unbundled network elements the CLEC has purchased from an incumbent local exchange carrier. See CompTel v. FCC, 117 F.3d 1068, 1075 n.5 (1997); Iowa Utilities Board, 120 F.3d at 794. I am not aware of any proper basis for BellSouth's refusal to develop and provide both interstate and intrastate access billing data.

C. BellSouth is Not Providing Billing and Usage Data Necessary for CLECs to Bill and Collect Reciprocal Compensation for Terminating Local and IntraLATA Calls.

25. Similarly, BellSouth is not providing the usage and billing data necessary for CLECs to bill and collect reciprocal compensation from other carriers for terminating local calls (absent "bill and keep" arrangements) and intraLATA toll calls. As noted above, BellSouth claims that it recently acquired the ability to provide "MOU based switching and transport elements for all local calls originating from [unbundled local switching- line ports]." Letter from Mark L. Feidler (BellSouth) to William J. Carroll (AT&T) (September 12, 1997) (Attachment 1) at 4. Yet, BellSouth makes no claim that it can provide the billing and usage data necessary to permit CLECs to bill and collect reciprocal compensation on local or intraLATA toll calls terminating to CLEC customers served via unbundled network elements purchased from BellSouth. Historically, there was no reason to capture such information. As competition develops, however, multiple carriers will be providing service using unbundled local switching purchased from BellSouth, and therefore it will be necessary for BellSouth to measure and record this terminating usage.

FCC DOCKET NO. CC 97-208
AFFIDAVIT OF JAMES A. TAMPLIN, JR.

26. BellSouth attempts to justify its failure to take steps to develop the capability to provide this data by taking the position that CLECS providing service using unbundled network elements are not entitled to bill and collect reciprocal compensation on calls to their customers, and therefore BellSouth has no obligation to develop the capability to provide CLECs with the data necessary to permit them to bill and collect reciprocal compensation from other carriers. Until BellSouth develops and deploys some appropriate arrangement to apportion switching usage data by carrier and by line for each CLEC, BellSouth will not be in a position legitimately to offer to provide the necessary terminating usage data.

D. BellSouth Restricts Access to Vertical Features That Are Part of the Unbundled Local Switch.

27. In defining the unbundled switching element to include "all vertical features that the switch is capable of providing, including custom calling, CLASS features, and Centrex," the Commission explicitly rejected RBOC arguments that vertical features are available to competing providers only through the resale provisions of Section 251(c)(4). Local Competition Order, ¶¶ 412-13. The Commission also declined "to require further unbundling of the local switch into a basic switching element and independent vertical feature elements," but observed that state commissions would be free to consider whether CLECs should be permitted to order vertical features as "separate network elements." Id., ¶ 414. The

FCC DOCKET NO. CC 97-208
AFFIDAVIT OF JAMES A. TAMPLIN, JR.

Eighth Circuit affirmed the Commission's regulations on vertical features. Iowa Utilities Board, 120 F.3d at 808-810.

28. Nevertheless, in two respects, BellSouth is not offering access to the vertical features of the unbundled local switch in accordance with the requirements of the Act and the Commission's regulations. First, BellSouth proposes to charge CLECs extra for "activation and use" of vertical features that should be provided as part of the unbundled local switching element. Second, BellSouth denies access to vertical features except as they are being used in existing BellSouth retail services.

1. **BellSouth's SGAT will impose separate charges for vertical features.**

29. BellSouth's SGAT recognizes that vertical features are part of the unbundled local switching element.⁵ Nevertheless, as initially approved, BellSouth's SGAT

⁵ The SGAT defines local switching as:

all of the features, functions, and capabilities that the underlying BellSouth switch that is providing such Local Switching function is then capable of providing, including but not limited to: line signaling and signaling software, digit reception, dialed number translations, call screening, routing recording, call supervision, dial tone, switching, telephone number provisioning, announcements, calling features and capabilities (including call processing), CENTREX, Automatic Call Distributor (ACD), Carrier pre-subscription (e.g., long distance carrier, intraLATA toll), Carrier Identification Code (CIC) portability capabilities, testing and other operational features inherent to the switch and switch software.

SGAT (September 19, 1997) Attachment C ¶ 5.1.1 at 7 of 58; see also SGAT (August 4, (continued...))

FCC DOCKET NO. CC 97-208
AFFIDAVIT OF JAMES A. TAMPLIN, JR.

expressly stated that "switch functionalities that provide retail services, e.g., vertical features, are available at the retail service price less the applicable wholesale discount." SGAT VI., A. (August 4, 1997).

30. Over AT&T's objections, the South Carolina commission approved the SGAT with this obviously unlawful provision. Upon further consideration, BellSouth itself took steps to change it. The new provision, however, is no better than the old. BellSouth amended the SGAT by deleting the provision that proposed to charge for vertical features separately at wholesale rates and adding a new provision stating that vertical features must be ordered separately from unbundled local switching once the SCPSC establishes separate charges:

Specific vertical features associated with a port must be separately ordered. The rates for individual vertical features will be set by Order of the [SCPSC] in a separate docket. No charges will be assessed for the activation and use of vertical features until that time. Rates established by the [SCPSC] for these features will be applied prospectively from the date they are established.

SGAT VI., B. (emphasis added). The South Carolina commission approved the amendment. As a result, under BellSouth's SGAT, vertical features are offered as part of unbundled local switching only until the South Carolina commission prescribes charges to be assessed in addition to the charge for unbundled local switching. BellSouth simply replaced the unlawful

⁵ (...continued)
1997) Attachment C ¶ 5.1.1 at 7 of 58.

FCC DOCKET NO. CC 97-208
AFFIDAVIT OF JAMES A. TAMPLIN, JR.

separate wholesale rate for vertical features with a separate rate to be prescribed by the same South Carolina commission that approved the wholesale rate.

31. This aspect of BellSouth's SGAT is inconsistent with the cost-based rate requirement of Section 252(d). The SGAT does not propose to back out the cost of providing vertical features from the charge for unbundled local switching. Rather, that charge -- which by definition in the SGAT includes vertical features⁶ -- remains the same. BellSouth's amendment will therefore allow BellSouth to recover an amount in excess of the cost of providing unbundled local switching by assessing a charge for activation and use of the vertical features in addition to the cost-based rate for unbundled local switching. Notably, the SGAT does not purport to offer CLECs the option of choosing between, for example, (1) unbundled local switching, including all the functionality of the switch, at a cost-based rate or (2) unbundled local switching, without vertical features, at a lower cost-based rate (excluding the cost of providing vertical features). Instead, the "price list" attached to BellSouth's SGAT confirms that BellSouth will charge \$.003 per minute of use for the unbundled local switching element and, as soon as the SCPSC prescribes a price, will charge an additional amount for "activation and use" of each vertical feature the CLEC uses to serve its customers. SGAT, Attachment A at 3 n.1 (September 19, 1997).

⁶ Indeed, BellSouth's amendment to the SGAT further confirms that "Local switch functionality includes ... vertical features." SGAT VI, A. (September 19, 1997).

FCC DOCKET NO. CC 97-208
AFFIDAVIT OF JAMES A. TAMPLIN, JR.

32. The only justification BellSouth has offered for this additional charge is that "[t]he Eighth Circuit decision found that vertical features such as Caller I.D., Call Waiting, and Call Forwarding qualify as network elements." Affidavit of Alphonso J. Varner, ¶ 10; see In re Entry of BellSouth Telecommunications, Inc. Into InterLATA Toll Market, Docket No. 97-101-C (SCPSC), Comments of BellSouth Telecommunications (August 25, 1997) at 4. In context, it seems clear that in upholding the Commission's conclusion that the entire functionality of the switch, including vertical features, should be available under Section 251(c)(3), the court of appeals was not approving a new way to evade that requirement by permitting incumbents to double-charge for vertical features.⁷ The decision of the court of appeals therefore provides no support for BellSouth's apparent intention to charge CLECs once

⁷ Before the Eighth Circuit, BellSouth and the other petitioners unsuccessfully argued that vertical features such as caller I.D., call waiting, and call forwarding are "actually finished services and that the legislative history and structure of the Act suggest that 'services' were not meant to be unbundled but rather sold to the requesting carrier for resale under subsection 251(c)(4)." 120 F.3d at 809. The court of appeals concluded that the Commission had properly rejected the argument: "Our agreement with the FCC's determination that the Act broadly defines the term 'network element' leads us also to agree with the Commission's conclusion that operator services, directory assistance, caller I.D., call forwarding, and call waiting are network elements that are subject to unbundling." 120 F.3d at 809; see also id. (features like "caller I.D., call waiting, and call forwarding are vertical 'features' that are provided through the switching hardware and software that are also used to transmit calls across phone lines" and thus "qualify as network elements as well"); id., at 810 (operator services, directory assistance, caller I.D., call forwarding, and call waiting "satisfy the definition of 'network element'; consequently they are subject to the unbundling requirements of subsection 251(c)(3)").

FCC DOCKET NO. CC 97-208
AFFIDAVIT OF JAMES A. TAMPLIN, JR.

for all the features, functions, and capabilities of the unbundled local switch, and then charge them again for "activation and use" of each vertical feature of the switch they use.

33. BellSouth's proposal to double charge CLECs for the vertical features of the unbundled local switching element is anticompetitive and discriminatory. It is anticompetitive because it will effectively preserve some part of the very substantial margins that BellSouth currently enjoys on providing services with vertical features. It is discriminatory because BellSouth pays once to obtain the right to use all the functionality of the switch, while CLECs would be required to pay both the economic cost of providing unbundled local switching, including all of its functionality, plus separate and additional charges for "activation and use" of each vertical feature of the switch.

34. The SGAT provision requiring CLECs to order vertical features separately is discriminatory in another way as well. Today, the Local Service Request ("LSR") for ordering unbundled local switching, approved by the Ordering and Billing Forum ("OBF") and used throughout the industry, contemplates that individual vertical features may be selected as part of the ordering of unbundled switching. There is no LSR for ordering vertical features separately. As far as I am aware, neither BellSouth nor anyone in the industry has even proposed that OBF consider developing a separate LSR for vertical features. Consequently, requiring CLECs to order vertical features "separately" would effectively foreclose efficient market entry using unbundled network elements. Each CLEC request for

FCC DOCKET NO. CC 97-208
AFFIDAVIT OF JAMES A. TAMPLIN, JR.

vertical features would have to be processed manually until the OBF could approve a new LSR for vertical features -- a process that could take at least several months.

2. BellSouth denies access to vertical features of the switch except as they are offered in existing BellSouth retail services.

35. One of the significant competitive advantages of purchasing unbundled local switching as opposed to reselling a BOC's retail services is that a CLEC that purchases unbundled local switching is not constrained by the BOC service definitions or tariff restrictions, but is free to use the switch to provide new services or new combinations of services. While BellSouth's SGAT purports to "offer all the functionality of its switches," including vertical features, it does not specifically offer to make available to purchasers of the unbundled local switch the ability to offer new services or combinations of services not offered by BellSouth. See SGAT VI., A. AT&T's experience with BellSouth in Kentucky demonstrates that BellSouth has no intention of offering CLECs this capability.

36. Kentucky is the one jurisdiction in which BellSouth purports to recognize its obligation to provide UNE combinations that include unbundled local switching. Although no formal testing is yet underway, on September 30, 1997, AT&T submitted two preliminary test orders in Kentucky. In one of the orders, AT&T sought to purchase an existing combination of unbundled network elements, including switching, for a particular customer and requested the addition of a new service "Call Hold." The second order requested an

FCC DOCKET NO. CC 97-208
AFFIDAVIT OF JAMES A. TAMPLIN, JR.

existing combination of unbundled network elements and the addition of "900" number blocking.

37. BellSouth refused to process either of the orders. See Letter from Jill Williamson (AT&T) to Jo Sundman (BellSouth) (October 3, 1997) (Attachment 3). BellSouth explained that "Call Hold" was only available as part of a BellSouth retail service that included several additional features:

Call hold can be ordered in Prestige Communication Service (PCS) in the Kentucky GSST Tariff A.12.16. Call Hold cannot be ordered as a stand alone feature and is either ordered with User Transfer/Conferencing (A12.16.3.B.4) or with User Transfer/Conferencing and Call Pickup.

Letter from Jo Sundman (BellSouth) to Jill Williamson (AT&T) (October 3, 1997) (Attachment 4). As to 900 number blocking, BellSouth explained that the feature was available only as part of a BellSouth tariff offering that blocks both 900 numbers and 976 numbers. Id.

38. Thus, while the unbundled local switching element that AT&T pays for includes the capability of providing both the "call hold" service feature and 900 number blocking, BellSouth refuses to permit AT&T to use these features to serve its customers, solely because BellSouth's retail offerings are structured differently.

E. BellSouth Is Not Providing or Offering Nondiscriminatory Access to Customized Routing.

39. When a CLEC purchases the unbundled local switching element, it obtains the right to use the capability of the switch to provide customized routing. See Local

FCC DOCKET NO. CC 97-208
AFFIDAVIT OF JAMES A. TAMPLIN, JR.

Competition Order ¶ 412 (finding that, in unbundling its local switching capability, a BOC must provide all "technically feasible customized routing functions provided by the switch.") BellSouth is not providing or offering nondiscriminatory access to customized routing in accordance with the requirements of the Act.

40. A critical component of AT&T's entry strategy is to use its own operator services and directory assistance ("OS/DA") centers. AT&T believes that its OS/DA centers are a valuable asset that differentiate its services from those of its rivals, and that it is important to provide its own operator and directory assistance services to its local service customers. To accomplish this entry strategy, AT&T needs operator and directory assistance calls from AT&T local service customers to be routed from BellSouth's switch to AT&T's OS/DA centers. This can be accomplished by using either Line Class Codes ("LCCs") or Advanced Intelligent Network (AIN) architecture to provide what is variously called "customized" or "selective" routing of OS/DA traffic.

41. BellSouth claims that customized routing is available "using Line Class Codes." SGAT VI., A., 2; Affidavit of Alphonso J. Varner, ¶ 120. AT&T's experience with BellSouth in Georgia demonstrates that BellSouth has not yet made customized routing available using either line class codes or AIN.

1. BellSouth is not providing customized routing using line class codes.

42. Using line class codes to provide selective or customized routing requires assignment of codes defining the "class of service" provided by each carrier and the appropriate routing of specific call types. Each switch must be programmed to recognize the line class code assigned to each of the lines served by that switch. For example, one line class code might identify AT&T customers with basic residential service, whose calls to directory assistance or operator services should be routed to AT&T OS/DA centers. A different line class code would identify BellSouth basic residential customers, whose directory assistance and operator services calls would be routed to BellSouth operator and directory assistance services.

43. AT&T and BellSouth have been attempting to use line class codes to provide customized routing to AT&T's OS/DA platform for AT&T resale customers in Georgia for at least the past five months. I understand that the line class codes have been installed. In field tests, however, AT&T and BellSouth identified a number of problems in completing operator and directory assistance calls from Lucent switches in BellSouth's network. AT&T-BellSouth Local Operator Services and Directory Assistance Site Report and Service Evaluation (Aug. 8, 1997) at 7 (Attachment 5). For example, 0- and 0+7 digit calls from the 5ESS switch went to "reorder" when they had to be routed through a tandem. Id. at 2. The proposed solution for the problems encountered on 0- and 0+7 digit calls from the BellSouth 5ESS switch is to install direct trunks from the 5ESS switch to AT&T's OS/DA